

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**AMGUARD INSURANCE COMPANY)
16 S. River Street)
Wilkes-Barre, Pennsylvania 18702,)
)
Plaintiff,)**

CASE NO.: 1-21-cv-00075

vs.)

**A&H TOWING, LLC)
2067 Preacher Holt Road)
Mt. Pleasant, Tennessee 38474)
c/o Harold Padgett, Registered Agent)**

JUDGE: William L. Campbell, Jr.

**HAROLD PADGETT)
2067 Preacher Holt Road)
Mt. Pleasant, Tennessee 38474)**

**AUSTIN PADGETT)
2305 Williamsport Pike)
Columbia, Tennessee 38401)**

**JOHN VENABLE)
801 Iris Circle)
Columbia, Tennessee 38401)**

Defendants,)

vs.)

**JANICE KILLEN)
57 Sutton Drive)
Lawrenceburg, Tennessee 38464)**

**MAXWELL KENNETH HOWARD,)
Deceased bnf MELISSA CARTER)
1513 Hatcher Lane, Apartment G-80)
Columbia, Tennessee 38401)**

**MELISSA D. CARTER,)
1513 Hatcher Lane, Apartment G-80)**

Columbia, Tennessee 38401)
)
Necessary Party Defendants.)
)
Defendants.)

**NECESSARY PARTY DEFENDANT JANICE KILLEN'S ANSWER TO
COMPLAINT FOR DECLARATORY JUDGMENT**

Comes now the Necessary Party Defendant Janice Killen and hereby answers the Plaintiff's Complaint for Declaratory Judgment as follows:

I. NATURE OF THE ACTION

1. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

II. PARTIES

2. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

3. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

4. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

5. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

6. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

7. Admitted.

8. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

9. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

III. JURISDICTION AND VENUE

10. Upon information and belief, the averments of this paragraph are admitted.

11. Upon information and belief, the averments of this paragraph are admitted.

12. Upon information and belief, the averments of this paragraph are admitted.

IV. FACTUAL BACKGROUND

13. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

14. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

15. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

16. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

17. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

18. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

19. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

20. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

21. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

22. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

23. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

24. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

25. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

26. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

27. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

28. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

29. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

A. The Policy

30. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

31. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

32. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

33. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

34. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

35. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

**B. A & H's Representations Were False and
Misleading**

36. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

37. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

38. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

39. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

40. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

41. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

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43. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

44. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

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49. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

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51. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

52. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

53. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

C. Events Leading to Killen Action

54. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

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56. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

57. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

58. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

59. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

60. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

61. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

62. Upon information and belief, the averments of this paragraph are admitted.

63. Upon information and belief, the averments of this paragraph are admitted.

D. The Killen Action

64. Admitted.

65. Admitted.

66. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

67. Denied.

68. Denied.

69. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

70. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

D. (improperly labelled by Defendant as Subpart

D) Events Leading to Carter Action

71. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

72. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

73. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

74. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

75. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

76. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

E. Application of Tennessee Law

77. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

78. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

79. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

80. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

81. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

82. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

83. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

COUNT 1

DECLARATORY RELIEF: POLICY IS VOID

***AB INITIO* UNDER TENNESSEE LAW**

84. This defendant incorporates her responses to #1-83 as if set forth fully here.

85. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

86. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

87. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

88. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

89. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

90. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

91. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

92. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

93. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

COUNT II

DECLARATORY RELIEF: POLICY IS VOID BY ITS OWN TERMS

94. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

95. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

96. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

97. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

98. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

99. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

100. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

101. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

102. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

103. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

104. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

RELIEF REQUESTED

105. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

106. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

107. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

108. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

109. This defendant is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph.

This defendant denies that Plaintiff is entitled to any of the relief sought in its complaint.

WHEREFORE, having fully answered, this defendant prays that this action be dismissed with her costs and demands a jury of twelve person to try this cause.

Respectfully submitted,

/s/ Mackenzie Cover

Mackenzie Cover, Esq. #036773

Michael D. Ponce & Associates

Attorney for Defendant Janice Killen

400 Professional Park Drive

Goodlettsville, TN 37072

(615) 851-1776

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served via the court's electronic filing system on:

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Email: holland@matthewsinjurylaw.com

on this 18th day of January, 2022.

/s/ Mackenzie Cover
Mackenzie Cover